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SUPREME COURT, U.S.

IN THE

SUPREME COURT OF THE UNITED STATES

FALL TERM 1980

No. **80-6502**

LYLE H. PRENZLER,

Plaintiff, Appellant

vs.

R. KEITH PIKE, ET AL.,

Defendant, Appellee.

JURISDICTIONAL STATEMENT

QUESTIONS PRESENTED

1. Was the Court Reporter's Transcript of April 7 1979; the only ordered and per attached 1 &2?
2. Was the denial of counsel consistent with rulings under 15 USC 77 [s](b) which provides for payment counsel and court fees?
3. Was the ruling for failure to prosecute within the hearing of April 5, 1979 and May 20 1979; consistent with rulings in ancillary actions that no trial or action for over five years and contrary to California law requiring dismissal?
4. Was the Court aware of Appellant's station in Middle East as per trial procee ings of April 5, 1979?
5. Was Appellant aware of any other hearings as not informed in said matter? No notification?
6. An Amended Reporter's Transcript and/or filing with Transcript of April 5, 1979, only and were all other compliance Rule Local 19(b)?

LIST OF ALL PARTIES

This action requesting injunctive relief pursuant to interpleader statutes; to defend against multiple vexations brought regardless of merit; denying all liability by Appellant and as cross-complaint; when such was not filed by attonreys in Arizona where some of the named parties are attorneys who it is contended have conspired to deprive Appellant of equal civil rights and Constitutional right to redress, freedom to associate, freedom

from multiple jeopardy and for due process and cr dit in one state for acts an another; in which Appellant really stakeholder between parties and the aid of United States sought to aid with expertise and legal assistance whe ethere are questions of interstate fraud, mail fraud, and rights under 18 USC 241, 42 USC 1980 among others. Parties include the broker of land in Arizona who made the same misrepresentation in sale to and sale from Appellant; has not been joined, and attorneys, grove care people, co-defendants all who have aided and abetted to defeat the Appellant by assignments, bringing some actions in Federal Court and some in State Courts; with unauthroized stipulations; false statements of diversity to bring in federal jurisdiction and numerous other acts which has been aided by he Court's failure to observe Appellant's overseas work with US and Saudi Arabia Governments, entered judgments where no representation; and compounded by the denial of due process due to procedural errors as herein; and this appeal timely pursuant to FRCP 60 (1,2,3,4,5,6) and there is fraud, mistake and void judgments involved. Consolidation for same questions of law and fact (FRCP 42(a) has been refused as has Amendment and Stay of Proceedings Pending Appeal (FRCP 8(a) and FRCP 15 (a); which have tripled judgments on same liabilities against appellant who denies all liability. Irreparable damage herein to Appellant.

JURISDICTION

This appeal is filedand these proceedings are instituted under 28 USC 1402(a)(1); 18 USC 1252; 28 USC 2101(c); this appeal was filed on March 24, 1981; the Order of the Court of Appeal Ninth of February 27 1981 denying reharing and supplementation of appeal from a prior order dismissing for failure to perfect appeal pursuant to local Rule 19(b). Jurisdiction also under 15 USC 1-15, 77, 78; 18 USC 241,241; 42 USC 1983,1985,1986; 28 USC 1343, 1397,1335,2361.

The cases believed to sustain the jurisdiction are:

1. Griffin v. People Illinois; III 1956 76 SCt 585;
2. VanDorsey v Borral Pa 1964; 84 S.Ct. 805;
3. Trader v Paper Talbert Inc DC Pa 1961; 190 FSupp 282;

4. US v Livinghood Wash 1970 427 F2d 420;

5. US v Garrell DC Alaska 1948; 76 F Supp 35;

6. Pan American Fire v Revere ED La 1960; 188 F Supp 474;

7. Western Union v Commonwealth Pennsylvania 1961 368 US 71.

Related causes are and have been filed in state and federal courts and on appeal during all times herein; and interpleader rights refused in Arizona and in this Case and others in California and redress refused on fraudulent conveyance FRCP 18(b); and violations by collusive joinder pursuant to 28 USC 1359 by assignment or otherwise and violations by mail fraud 18 USC 1341.

INVOLVED CONSTITUTIONAL PROVISIONS AND STATUTES

FOURTEENTH AMENMDNET

Section 1--Nor shall any State deprive any person of life liberty property ithout due process of law".

AMENDMENT FIVE

"Nor shall person be subject for same offense be twice put in jeopardy".

"Not be deprived of life, liberty or property without due process".

FIRST AMENDMENT

"Congress shall make no law abridging right to petition the government for redress or grievances."

ARTICLE FOUR SECTION 1

"Full faith and credit shall be given in each state to public acts records or judicial proceedings of every other state."

STATEMENT OF CASE

Involved are denials by bringing certain assignments in State courts while at same time bringing action for same liabilities in federal courts which have tripled judgments on same liabilities; and Appellant denies all liability. This action alleges an aggravation of denial of said Constitutional rights contrary to law by denial of appeal and hearing not in conformity with related actions; for dismissal for failure to prosecute, failure to accept appeal when court record by Court Reporter in mistake by said Court Reporter and the Court but not by error of Appellant and in effect dismissing for procedural error and for denial of injunctive relief which has injured Appellant. Further are

denials of payment fees pursuant to 15 USC 78p(b). Application to vacate and set aside under 50 USC 510-590 when Appellant disabled in MidEast. Court was apprised of change address and as no one had answered prior to change address--failure notification Appellant a denial due process. Multiple actions brought without regard to merit to defeat Appellant and increase chances th t he might lose one action and be unable to defend.

STATEMENT REASONS QUESTIONS ARE SUBSTANTIAL

Involved are questions of fraud or deceit in connection with sale of fraudulent conveyances in which redress refused as well as interpleader rights and due process; and thus judgments against appellant tripled for same supposed liability in which he was the stakeholder and entitled therein to injunctive relief and trial by the adverse parties who sold to him and bought from him in a real estate transaction and denial of rights in foreign state by conspiratorial activities which also, it is believed have been aided and abetted by court personnel--and Attorney General apprised of criminal activities and need for expertise of United States. Included are antitrust activites and denials under Wright Patman Act. There are substanial reasons of public interest and presented on facts appearing in the record, and joinder of actions permitted and denied by Courts and remainder facts pleaded herein on appeal. The actss alleged will impair the rights of Appellant to prevent prejudice to his civil rights or of those similarly situtated and injured thereby

CONCLUSION

Thermerits of this litigation should be reviewed and determination made rather than upon technical grounds, in this miscarriage of justice.

April 7 1981

LYLE H. PRENZLER PRO SE
715 E Chapman Orange Ca 92666
714 639 1701

VERIFICATION

I declare under penalty perjury I believe above truthful.

April 7, 1981

LYLE H. PRENZLER

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

FEB 4 1981

RICHARD H. DEAN
CLERK, U.S. COURT OF APPEALS

LYLE H. PRENZLER,

Plaintiff/Appellant,

vs.

R. KEITH PIKE, et al.,

Defendants/Appellees.

No. 79-3438

D.C.#79-0770 MRP
CENTRAL CALIFORNIA

ORDER

Before: FARRIS and NELSON, Circuit Judges.

Upon due consideration, appellant's petition to supplement appeal and petition for rehearing of this court's order of October 31, 1980 are denied.

LYLE H. PRENZLER
715 E Chapman Ave
Orange CA 92666
714 639 1701

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MAR 24 1981

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SUPREME COURT, U.S.

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

LYLE H. PRENZLER,

Plaintiff/Appellant,

vs.

H. KEITH FIKE, ET AL.,

Defendants/Appellees,

No. 79-3438

NO. 79-0270 MRP
CENTRAL CALIFORNIA

NOTICE OF APPEAL

Lyle H. Prenzler, appeals the Order dismissing for lack of prosecution as a denial of injunctive relief and denial of interpleader rights to the US Supreme Court, date of Order February 27, 1981.

Dated: March 17, 1981

LYLE H. PRENZLER IN PRO SE

COPIES TO PARK REYNES 501 Camino de la Reina San Diego
Jeff Bonn 101 N First Ave Phoenix Arizona
J. Michael Hennigan, 124 Lasky Dr, Beverly Hills CA
William J. Paredon, 3500 Valley Center Phoenix Ariz.

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RECEIVED
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UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

LYLE H. PRENZLER,

Plaintiff,

v.

R. KEITH PIKE, JOSEPHINE PIKE, KARM MENATH, MARGUERITE MENATH; FRED KAMRATH, VERA KAMRATH, DBA YUMA REALTY: HOMER REED, CLARENCE V. SPENCER, LYLE WHITMER, CONRAD KLAINMAN, LUCILLE KLEINMAN Defendants. STEWART TITLE CO.

CIV. NO. '79-0770 MRP(Px)

COMPLAINT FOR ~~INTERPLEADER ACTION, CLAIM FOR~~ INJUNCTIVE RELIEF,

NOW COMES plaintiff (herein also claimant, cross-claimant, stakeholder), LYLE H. PRENZLER,

1. This civil action of interpleader or in the nature of interpleader is filed under original jurisdiction of the district court, as in 28 U.S.C. 1335, also 1397 and 2361, and Rule 22(1) as to venue, injunctive relief, and service of process.

2. Plaintiff is a citizen of California. Defendants (herein also claimants, cross claimants) are of diverse citizenship from plaintiff, and diverse within their group, Pikes, Menaths, Kamraths, Spencer, Whitmer are from Arizona and Reed from Pennsylvania, in residence and citizenship.

3. Parties are two or more adverse claimants, and action titles or claims

of the conflicting claimants do not have a common origin or [illegible] but are adverse to and independent of one another.

4. The action titles and claims arise from sale by Reed to Pranzler of 40 Acres of Citrus in Yuma County Arizona in 1970, through broker Kamrath, and sale of same 40 Acres of Citrus to Kleinman in 1973, through same broker, and adverse claims resulting from supposed misrepresentation of these sales, which have also involved 40 additional Acres of Citrus in the 1973 sale, in which Klainman has not paid on contract and for which Prenzler is paying care costs. Pikes and Menaths are assignees of Note and Mortgage on the 1970 sale and part of 1973 sale, and have foreclosed and obtained Deficiency Judgment against Prenzler, when Kleinman refused to pay after December 1975, and have obtained sister state money judgment. Spencer has a suit for care of ranches under Statute of Frauds. Whitmer, according to deposition, received $2000 for verification of the 1973 sale, from Klainman. The sale price was lowered by Kleinman by $2000.00 in 1973, under an adhesion contract. Claims and Cross Claims in the above action are in the District Court for Arizona, Superior Court of Orange County California, Superior Court of Yuma County Arizona, Court of Appeals for California, and Court of Appeals of United States for Ninth Circuit. In addition, a suit in same actions and cross actions, is for Stewart Title Company for its position as payee under Klainman's Note to Prenzler in 1973.

5. The amount in controversy is over $10,000.00, exclusive of costs and interest.

6. Diversity may be as under 28 U.S.C. 1332.

7. Injunctive relief is as U.S.C. 2361, from instituting or prosecuting any proceeding in any state or United States Court affecting the propery, instrument or obligation involved in the interpleader action until further order of the Court, and issue of process for all claimants.

8. As in 28 U.S.C. 2361, hearing to determine the case and discharge of

... injunctive relief, and early temporary restraining order;

2. Permanent injunctive relief, and declaration of discharge of plaintiff from further liability;

3. Service of process to all claimants;

4. Hearing on interpleader action;

5. Jurisdiction and venue in this Court;

6. Damages and equitable relief according to proof, and as to this Court seems just and proper.

DATED: February 22, 1979

Respectfully submitted

LYLE H. PRENZLER IN PRO PER

VERIFICATION

STATE OF CALIFORNIA)
) SS.
COUNTY OF ORANGE)

LYLE H. PRENZLER, M.D., Being first duly sworn upon his oath, deposes and says:

That I am the Plaintiff in the above-captioned matter and have read the foregoing Complaint, Interpleader Action, Claim for Injunctive Relief, and know the contents thereof; that the same is true to the best of my knowledge, information and belief.

LYLE H. PRENZLER, M.D.

SUBSCRIBED AND SWORN TO before me this (3) 22nd day of February 1979

NOTARY PUBLIC
Conway J. Beaver

OFFICIAL SEAL
CONWAY J. BEAVER
NOTARY PUBLIC — CALIFORNIA
PRINCIPAL OFFICE IN
ORANGE COUNTY
My Commission Expires Nov. 12, 1979

IN THE UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

- - -

HONORABLE MARIANA R. PFAELZER, JUDGE PRESIDING

- - -

LYLE H. PRENZLER, Plaintiff,	)	
vs.	)	No. CV 79-770-MRP
R. KEITH PIKE, et al., Defendants.	)	

REPORTER'S TRANSCRIPT OF PROCEEDINGS

Los Angeles, California

Thursday, April 5, 1979

BARBARA BROSNAN, CSR
Official Reporter
412 U.S. Courthouse
312 North Spring Street
Los Angeles, California 90012
Telephone: (213) 680-1089

APPEARANCES:

For the Plaintiff:

LYLE H. PRENZLER
In Propria Persona

LOS ANGELES, CALIFORNIA, THURSDAY, APRIL 5, 1979, 1:30 P.M.

--oOo--

THE CLERK: No. 2 on the calendar, 79-770-MRP, Lyle H. Prenzler versus R. Keith Pike, et al.

MR. PRENZLER: Your Honor, I am appearing in pro per.

THE COURT: Are you Mr. Prenzler?

MR. PRENZLER: Yes. The opposite party has not answered.

THE COURT: I didn't hear what you said.

MR. PRENZLER: I say the opposing parties have not answered.

THE COURT: Have you served everybody?

MR. PRENZLER: As far as I know, I believe I have.

THE COURT: How?

MR. PRENZLER: By the United States marshal, your Honor.

THE COURT: So all these parties have been served?

MR. PRENZLER: Yes, your Honor.

THE COURT: Where? In Arizona?

MR. PRENZLER: Yes, ma'am, except for the party Reed who is in Pennsylvania.

THE COURT: He is in Pennsylvania?

MR. PRENZLER: Yes, ma'am.

THE COURT: Do any of these people have any contact with California? Do they live here? Do they transact business here? Do they transact business with you here? Do they have anything to do with this state?

MR. PRENZLER: Yes, ma'am. They do. Mr. Kamrath, who is the broker involved in the transactions here, has continued to have business dealings in the State of California, selling property in the state, and as far as I know, he continues to do that and has done it for a number of years, prior to 1970 and up till 1974, that I am aware of.

THE COURT: But not now?

MR. PRENZLER: I am quite sure he does. I am quite sure that he -- I know for a fact that he does deal in property in Arizona -- I mean in California, across the river from Yuma, Arizona.

THE COURT: Well, tell me something about what he does in Los Angeles. What does he do in the Central District of California? What does he do in this area?

MR. PRENZLER: He has sold property to me in Orange County, California.

THE COURT: When?

MR. PRENZLER: 1970. And he sold property for me to Kleinman in 1973.

THE COURT: Well, what does he do now in this area? He lives in Arizona, doesn't he?

MR. PRENZLER: Yes, your Honor.

THE COURT: All right. Let me tell you what the problem is. You have sent service of process out to all of these people.

MR. PRENZLER: Yes, your Honor.

THE COURT: The people don't live here in California. Now, maybe one of the people does some business here, the one you just have spoken of.

They are simply going to come in and quash the service of process on them on the ground that they have no contact with this state and no reason to be in the Central District of California. Now, let me go on for a minute.

MR. PRENZLER: Yes, ma'am.

THE COURT: You also are litigating the controversy having to do with this property and the money which is being held up in Arizona. You have been litigating it for a long time there so that now we have a very good motion, a well-founded motion by Stewart Title to be dismissed out.

Now, all those other people that you have served are going to be dismissed out on a different ground; probably even the agent you are talking about, because he probably doesn't transact enough business in California to have a sufficient contact, and if he does, it isn't in the Central District of California, in which event venue isn't proper as to him.

So what I am saying to you is that you have got -- First of all, you have a problem about the parties and, second of all, you have a problem about relitigation.

Now, you have a third problem in that you haven't got any cause of action stated. You haven't got anything in your complaint that a court could deal with.

Now, let me tell you, that is not an interpleader action. You have not interpled anything. You haven't got anything to interplead.

So as far as that is concerned, the complaint wouldn't withstand a motion to dismiss it for one minute. There is nothing you could say to defend that complaint.

So that brings me to the part about the question of whether you have got a meritorious cause of action and whether, indeed, this is a harrassing complaint

and action. It looks that way to me.

Now, I want to go on to the next part. You want the Court to request an attorney to represent you.

MR. PRENZLER: Yes, ma'am.

THE COURT: You know that the attorney wouldn't be compensated.

MR. PRENZLER: No, ma'am, I don't know that. As I have tried to explain, I really have been completely swamped by multiple complaints, some of which I feel --

THE COURT: They are all in Arizona.

MR. PRENZLER: Yes, ma'am.

THE COURT: You filed this one.

MR. PRENZLER: Yes, ma'am, I have.

THE COURT: Why aren't you litigating in Arizona? You have a lawyer there.

MR. PRENZLER: I do not have a lawyer there.

THE COURT: Well, now you realize that it is in the discretion of the Court whether to grant this kind of an order and I wouldn't think of doing it on this complaint and on this set of facts. I wouldn't think of it.

Moreover, you haven't put in an affidavit of poverty. You are not poverty stricken.

MR. PRENZLER: Yes, ma'am. I have submitted an affidavit of poverty which I consider relative poverty.

I wouldn't consider that I have --

THE COURT: No, you haven't got the kind of poverty for this section of the code. You should not have this action going on in the Central District of California. You should be litigating in Arizona. This is repetitive.

MR. PRENZLER: Can I ask that it be transferred to the District of Arizona then.

THE COURT: This?

MR. PRENZLER: Yes, ma'am.

THE COURT: Why should it be transferred to the District of Arizona? Why don't you just file whatever claims you have right there in that action.

MR. PRENZLER: Because it is a marked inconvenience for me to try to do anything in Arizona. I have had marked problems with attorneys in Arizona. There's been action involving censure by attorneys I have had down there. One attorney I had took a position with the federal government in Washington, D.C. The attorney he substituted out to has me involved in paying for the care of ranches which are not even involved in this controversy. I feel that --

THE COURT: Well, this case, Mr. Prenzler, does not belong in this court. You should dismiss this case and bring whatever your claims are someplace else;

in Arizona where they belong, where you can get easy service on these people and you can bring them into the action and you can take depositions or do whatever you are going to do.

We are simply going to get mired down here in endless motions like the one that is in front of me that is to be heard on the 7th of May.

MR. PRENZLER: Yes, ma'am.

THE COURT: It is as good a motion as I have ever read. It is well grounded and if they were in here right now I would grant it in a minute.

MR. PRENZLER: I haven't received a copy of it so I can't speak to that.

THE COURT: I can't believe you didn't.

MR. PRENZLER: No, ma'am. I haven't as yet.

THE COURT: There is an affidavit of service.

MR. PRENZLER: I haven't received it. I don't know why, but I have not received it.

THE COURT: Well, I can't grant the application for an order under the section, the forma pauperis section, so I don't know what to do with respect to this. I really think you should be voluntarily agreeing to dismiss it.

MR. PRENZLER: Your Honor, one other thing comes up. The question is where the cause of action occurred.

The property involved here has been completely wasted and destroyed. The trees have been removed. The property is not in any way, shape or form like it was, even though the parties agreed to take care of them on the contract.

The misrepresentations have occurred in Orange County, California. I am in a position basically where I cannot carry on an action, I do not believe, where I think the State of Arizona and the courts in that state and the position is such that I cannot obtain a fair hearing there.

THE COURT: I can't believe that. I have no indication of that.

MR. PRENZLER: Your Honor, I think I have justification for believing this from the standpoint, as I say, that there have been some things going on over there which just don't seem to be within the realms of reality.

THE COURT: Well, I have nothing, no evidence of that at all in front of me and I have no reason to think that the Federal Court in Arizona wouldn't give you a fair trial and a fair pretrial, that you would have fair pretrial proceedings. So I can't grant this.

What I am telling you is that if you leave the country now to go to work wherever you are going to

work --

MR. PRENZLER: Yes.

THE COURT: -- you are not going to be here at the time that a whole series of motions objecting to the continuation of this proceeding will be filed and there won't be any opposition to them and they will be granted and that will be the end of it. This is not the forum for this case.

MR. PRENZLER: Yes, ma'am.

THE COURT: I think you should voluntarily agree to dismiss it and bring it in Arizona. How long are you going to be gone to work?

MR. PRENZLER: Well, I explained in my papers, it is a matter of basically the fact that I am mired in so many involved cases here and so much action, I literally cannot spend any time working and it's eroded my income. I have several children to take care of and I just can't do it any more.

THE COURT: Everyone thinks, Mr. Prenzler, --

MR. PRENZLER: I understand.

THE COURT: -- that litigation is time consuming and costly, and it is. There is no question about it.

MR. PRENZLER: Yes.

THE COURT: I am as sympathetic as I can be

with respect to that, but I am telling you practically where you now are headed. You are headed for a whole -- you have sent out all the subpoenas to these individuals and you now are going to get a whole series of motions back and you won't be here.

MR. PRENZLER: I have applied for consolidation of the actions basically and I have received --

THE COURT: I don't mean subpoenas. I mean summons, excuse me.

MR. PRENZLER: I have received no response to my request to consolidate the actions and to have them heard.

THE COURT: They are not going to do that. They are not going to ask to have them consolidated. They are going to ask to have them dismissed, and they will be right.

MR. PRENZLER: Well, I respectfully request that I be allowed to keep the action open. If the Court feels that it should be dismissed, then I must adhere to the Court's opinion.

THE COURT: No, I am not forcing you to dismiss. I am not dismissing it. I am telling you that I will let it sit right where it is, but you will see that it will be dismissed because every party who has been served with a summons will be in here saying that they don't

have any contact with this area, that venue isn't properly laid in the Central District, and that they ought to be somewhere else and, anyway, there is a lawsuit going in Arizona. Also, you don't state a cause of action.

That is an awful lot of things wrong with one proceeding.

MR. PRENZLER: The only thing is, the only person in here that has been considered and ruled as being indispensible is now in a position where he may be dismissed in Arizona.

THE COURT: Is that Mr. Reed?

MR. PRENZLER: Mr. Kamrath.

THE COURT: Mr. Kamrath.

MR. PRENZLER: Who represented Mr. Reed in the sale to me. I have nothing else to say, but as I say, I request respectfully that the case be kept open and that it does not be dismissed.

THE COURT: Well, I will not dismiss it. If you will not pay attention to what I say, I will rule on the motions when they come before me. I was only attempting to reason with you.

All right. The order of the Court will be that the application for an ex parte order for appointment of counsel pursuant to 28 U.S.C. 1915 (d), in forma pauperis, be denied.

LYLE H. PRENZLER
715 EAST CHAPMAN AVENUE
ORANGE, CALIFORNIA 92666
(714) 639 1701

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT FOR CALIFORNIA

LYLE H. PRENZLER,

Plaintiff,

v.

R. KEITH PIKE, ET AL.,

Defendants.

NO. CIV 79-0770 MRP(Px)

NOTICE OF APPEAL

TO THE OPPOSING COUNSEL WHO HAVE NOT ANSWERED YET:

PLEASE TAKE NOTICE THAT LYLE H. PRENZLER, HEREBY, appeals the Order in the above action dated April 5, 1979, for denial of injuctive relief, and failure to appoint counsel or to declare in forma pauperis.

DATED: April 5, 1979

RESPECTFULLY SUBMITTED

LYLE H. PRENZLER IN PRO PER

LYLE H. PRENZLER
715 EAST CHAPMAN AVENUE
ORANGE, CALIFORNIA 92666
(714) 639 1701

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

LYLE H. PRENZLER, Plaintiff, v. R. KEITH PIKE, ET AL., Defendants.	CIV NO. 79-0770-MRP(Px) DESIGNATION OF RECORD OF APPEAL

LYLE H. PRENZLER hereby designates the following Record of Appeal:

1. Court Reporter's Transcript of April 5, 1979;
2. COMPLAINT for Injunctive Relief;
3. MOTION for leave to proceed in forma Pauperis, Affidavit in Support,
4. Application for ex parte order for appointment of counsel.

Dated: April 5, 1979

LYLE H. PRENZLER, IN PRO PER

BONN & ANDERSON, P.A.
LAWYERS
TWO THOUSAND FIRST NATIONAL BANK PLAZA
ONE HUNDRED WEST WASHINGTON STREET
PHOENIX, ARIZONA 85003
TELEPHONE (602) 252-3823

Attorneys for PLAINTIFFS

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ARIZONA

CONRAD J. KLEINMAN and LUCILE L. KLEINMAN, his wife, Plaintiffs, vs. LYLE H. PRENZLER, a married man dealing with his sole and separate property, Defendant.	NO. C O M P L A I N T

Plaintiffs, for their Complaint, allege as follows:

FIRST CLAIM FOR RELIEF

I

Plaintiffs are residents of the State of Arizona; the Defendant Prenzler is a resident of the State of California. The amount in controversy between the parties herein exceeds the sum of $10,000.00, exclusive of interest and costs, and this Court has jurisdiction of the premises by virtue of 28 U.S.C. §1332.

II

On or about the 1st day of September, 1973, the Plaintiffs did purchase from the Defendant Prenzler, allegedly dealing with his sole and separate property, for the total sum of $318,000.00 eighty (80) acres of commercial citrus grove located in Yuma County, Arizona, more particularly described as follows:

EXHIBIT "A"

DOCKETED

PARCEL NO. 1: The Northeast quarter of the Southwest quarter of Section 7, Township 10 South, Range 23 West, Gila and Salt River Base and Meridian.

PARCEL NO. 2: The N 1/2 NE 1/4 NW 1/4 of Section 17, Township 10 South, Range 23 West, of the Gila and Salt River Base and Meridian, being Farm Units "A" and "B", according to the Farm Unit Plat.

PARCEL NO. 3: The W 1/2 SE 1/4 SW 1/4 of Section 23, Township 9 South, Range 23 West of the Gila and Salt River Base and Meridian, being a part of Farm Unit "C" according to the Farm Unit Plat. (Hereafter collectively referred to as "the subject property").

Such parcels include respectively forty (40) acres, twenty (20) acres, and twenty (20) acres, and said purchase included any personal property located thereon.

III

Prior to said purchase by the Plaintiffs, the Defendant hired and employed Mr. Fred Kamrath, dba Yuma Realty Company, a licensed real estate broker and/or salesman within the State of Arizona, to procure a buyer for the subject property.

IV

The Plaintiffs were induced to purchase the subject property based upon material representations of the said Fred Kamrath on behalf of the Defendant Prenzler, which said representations were, upon information and belief, mutually believed by the parties to be true, but in fact the Plaintiffs and the Defendant were mutually mistaken in their belief. Such mutual mistakes of fact included, but may not be limited to, the following:

1. The root stock of the citrus trees planted in the forty (40) acre Parcel No. 1 was of sour orange variety.

2. Parcel No. 1 was in its prime for fruit bearing, the forty (40) acres of citrus being only sixteen (16) years of age.

V

In fact, and unknown to both parties at the time of

& ANDERSON, P.A.
LAWYERS
WO THOUSAND
T NATIONAL BANK
PLAZA
E HUNDRED WEST
HINGTON STREET
NIX, ARIZONA 85003
(602) 256-0566

purchase by the Plaintiffs, the forty (40) acre Parcel No. 1 was planted on rough lemon root stock, which is more susceptible to a fungus disease of citrus known as phytophthora; the grove was, at the time of purchase, beyond its prime production capacity, being approximately twenty-one (21) years old.

VI

On or about November 24, 1975, the Plaintiffs first discovered the true facts as stated in Paragraph V above as opposed to the mutually mistaken facts previously believed by the parties upon purchase and sale of the subject property, and on December 12, 1975, the Plaintiffs tendered to the Defendant Prenzler a Quit-Claim Deed to the subject property, as well as a Bill of Sale to the personal property previously conveyed, along with a current accounting, and demanded rescission of the entire purchase and sale, and that the parties be placed in status quo ante. Such offer of rescission was open for a period of ten (10) days and has to date herein not been answered, and Plaintiffs deem that the Defendant has thus rejected rescission of the transaction complained of herein.

SECOND CLAIM FOR RELIEF

I

Plaintiffs reallege each and every, all and singular, the allegations of Plaintiffs' First Claim for Relief.

II

In order to induce the purchase of the subject property by the Plaintiffs from the Defendant Prenzler, the Defendant's agent Kamrath, on behalf of and for the benefit of the Defendant Prenzler, did make material misrepresentations concerning the subject grove to the Plaintiffs. These representations included, but may not be limited to, the following:

1. The root stock of the citrus trees planted in the forty (40) acre Parcel No. 1 was of sour orange variety.

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2. Parcel No. 1 was in its prime for fruit bearing, the forty (40) acres of citrus being only sixteen (16) years of age.

3. The owner (Defendant Prenzler) had "put a lot into the groves and it [was] about to start paying off."

But for the material misrepresentations of the Defendant' agent, which such representations were believed and relied on by Plaintiffs, whether or not such misrepresentations were made knowingly or innocently, the Plaintiffs would not have purchased the subject property in its entirety or any parcel thereof.

III

Despite the knowledge communicated to the Defendant Prenzler as aforesaid and the request for rescission, the Defendant Prenzler has refused to rescind the purchase and sale of the subject property and/or to place the parties in status quo ante.

WHEREFORE, Plaintiffs demand Judgment as follows:

On Counts One and Two of Plaintiffs' Complaint:

(a) For an order of this Court rescinding the purchase and sale of the subject property by and between Plaintiffs and the Defendant Prenzler;

(b) For an order of this Court fixing the amounts owed by the parties among themselves, including payments made to Defendant, expenses incurred by Plaintiffs in preservation of the subject property, income received by Plaintiffs, and expenses incurred by Plaintiffs for defending foreclosure litigation as a result of the Defendant's failure to rescind, which will place the parties in status quo ante.

(c) For Plaintiffs' costs incurred herein; and

(d) For such other and further relief as to the Court may seem just and proper in the premises.

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